

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
INFORMATION AND COMMUNICATION SERVICES DIVISION

HONOLULU, HAWAII

Legal Ad Date: May 2, 2014

INVITATION FOR BIDS
No. IFB-14-002

SEALED BIDS
FOR

COMPREHENSIVE ROUTINE AND EMERGENCY MAINTENANCE OF STANDBY GENERATOR
SYSTEMS AND THEIR ASSOCIATED EQUIPMENT, INCLUDING REFUELING SERVICES, AT ICSD
RADIO FACILITIES

will be received up to and opened at 2:00 P.M. (HST)
on

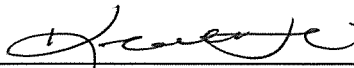
Tuesday May 27, 2014

at the Information and Communication Services Division (ICSD) Kalanimoku Building,
1151 Punchbowl Street, Room B-10, Honolulu, HI 96813

**Notify ICSD if you intend to attend the inspection visits no later than 2:00 PM Thursday
May 8, 2014. If not notified by any vendor, ICSD staff are not required to attend a site
inspection visit and no access will be possible.**

Technical questions relating to this bid solicitation shall be directed to Mr. Robert J. Hlivak, telephone (808) 586-1930 ext. 613, facsimile (808) 586-1962 or e-mail: robert.j.hlivak@hawaii.gov.

Procurement questions relating to this bid solicitation shall be directed to the designated the Contract Administrator (CA), Ms Sharon N.H. Wong, ICSD Acting Administrator, or her duly appointed representative. Ms. Wong may be contacted at telephone: (808) 586-1910, by facsimile: (808) 586-1922, or email: sharon.n.wong@hawaii.gov



Keoné Kali, Chief Information Officer

1.0 **Significant Dates**

Legal Ad Date: _____ Thursday May 2, 2014

Site Walks: _____ Monday May 12, 2014 – Tuesday May 20, 2014

Deadline for Questions: _____ 4:00 PM Wednesday May 21, 2014

Questions Answered: _____ 4:00 PM Thursday May 22, 2014

Bids Due / Opening: _____ 2:00 PM Tuesday May 27, 2014

Award Notification: _____ 2:00 PM Tuesday June 3, 2014

COMPREHENSIVE ROUTINE AND EMERGENCY MAINTENANCE OF STANDBY GENERATOR SYSTEMS AND THEIR ASSOCIATED EQUIPMENT, INCLUDING REFUELING SERVICES, AT ICSD RADIO FACILITIES

Chief Information Officer
Office of Information Management and Technology
Department of Accounting and General Services
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications, Special Provisions, and in the General Conditions, Form AG-008 103D (Rev. 10/17/13) attached to IFB-14-002; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof.

The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawai'i Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Date: _____
Telephone No.: _____
Fax No.: _____
e-mail Address: _____

Respectfully submitted,

Exact Legal Name of Offeror

Payment address, if other than street
address at right:

Authorized Signature (Original)

Hawaii General Excise Tax Lic. I.D. No.:

Title

Social Security or Federal I.D. No.:

Street Address
City, State, Zip Code

If Offeror shown above is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the contract, if awarded, will be executed:

Offeror is: ☐ Individual ☐ Partnership ☐ Corporation ☐ Joint Venture ☐ Other
(specify)

State of incorporation: Hawai'i _____ *Other _____
(Specify jurisdiction)

*If "other", is corporate seal available in Hawaii? ☐ Yes ☐ No

**The following bid (Page OF-2) is hereby submitted for the Comprehensive Routine and
Emergency Maintenance of Standby Generator Systems and Their Associated Equipment,
Including Refueling Services, at ICSD Radio Facilities**

As awards will be made by site, Offerors must bid on all items for a site for their bid to be compliant for that site. You may decline to bid on any site by entering the phrase "NO BID" in the boxes for that site. Blank items will be treated as "NO BID". One blank line item for a site will cause the entire site to be considered as "NO BID".

1. Standby Generator System and Its Associated Equipment at Kilohana, Kauai:

- 1A. Charge **per event** for Major Maintenance _____ \$
- 1B. Charge **per month** for Routine Maintenance _____ \$
- 1C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 1D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 1E. **One time** start of contract **cost** for special items (see specification) __\$

2. Standby Generator System and Its Associated Equipment at Kokohead, Oahu:

- 2A. Charge **per event** for Major Maintenance _____ \$
- 2B. Charge **per month** for Routine Maintenance _____ \$
- 2C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 2D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 2E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 2F. **One time** start of contract **cost** for special items (see specification) __\$

3. Standby Generator System and Its Associated Equipment at Puu Nana, Molokai:

- 3A. Charge **per event** for Major Maintenance _____ \$
- 3B. Charge **per month** for Routine Maintenance _____ \$
- 3C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 3D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 3E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 3F. **One time** start of contract **cost** for special items (see specification) __\$

Prices quoted by the Offeror in the bid proposal shall remain firm for the longer of sixty days following formal notification of award, or through September 30, 2014.

OFFEROR: _____

**OFFEROR MUST SIGN PAGES OF-2, OF-3, OF-4, OF-5, OF-6, AND ON THE OFFER FORM WITH
BLUE COLOR PERMANENT INK. DOLLAR AMOUNTS ON THESE PAGES MUST BE ENTERED IN
PERMANENT INK OR TYPEWRITTEN.**

**The following bid (Page OF-3) is hereby submitted for the Comprehensive Routine and
Emergency Maintenance of Standby Generator Systems and Their Associated Equipment,
Including Refueling Services, at ICSD Radio Facilities**

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4. Standby Generator System and Its Associated Equipment at Puu Kilea, Lanai:

- 4A. Charge **per event** for Major Maintenance _____ \$
- 4B. Charge **per month** for Routine Maintenance _____ \$
- 4C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 4D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 4E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 4F. **One time** start of contract **cost** for special items (see specification) __\$

5. Standby Generator System and Its Associated Equipment at Haleakala ICSD, Maui:

- 5A. Charge **per event** for Major Maintenance _____ \$
- 5B. Charge **per month** for Routine Maintenance _____ \$
- 5C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 5D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 5E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 5F. **One time** start of contract **cost** for special items (see specification) __\$

6. Standby Generator System and Its Associated Equipment at Wailuku SOB, Maui:

- 6A. Charge **per event** for Major Maintenance _____ \$
- 6B. Charge **per month** for Routine Maintenance _____ \$
- 6C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 6D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 6E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 6F. **One time** start of contract **cost** for special items (see specification) __\$

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OFFEROR: _____

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**The following bid (Page OF-4) is hereby submitted for the Comprehensive Routine and
Emergency Maintenance of Standby Generator Systems and Their Associated Equipment,
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As awards will be made by site, Offerors must bid on all items for a site for their bid to be compliant for that site. You may decline to bid on any site by entering the phrase "NO BID" in the boxes for that site. Blank items will be treated as "NO BID". One blank line item for a site will cause the entire site to be considered as "NO BID".

7. Standby Generator System and Its Associated Equipment at Kahua Ranch, Hawaii:

- 7A. Charge **per event** for Major Maintenance _____ \$
- 7B. Charge **per month** for Routine Maintenance _____ \$
- 7C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 7D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 7E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 7F. **One time** start of contract **cost** for special items (see specification) __\$

8. Standby Generator System and Its Associated Equipment at Kaupulehu, Hawaii:

- 8A. Charge **per event** for Major Maintenance _____ \$
- 8B. Charge **per month** for Routine Maintenance _____ \$
- 8C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 8D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 8E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 8F. **One time** start of contract **cost** for special items (see specification) __\$

9. Standby Generator System and Its Associated Equipment at Mauna Loa, Hawaii:

- 9A. Charge **per event** for Major Maintenance _____ \$
- 9B. Charge **per month** for Routine Maintenance _____ \$
- 9C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 9D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 9E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 9F. **One time** start of contract **cost** for special items (see specification) __\$

Prices quoted by the Offeror in the bid proposal shall remain firm for the longer of sixty days following formal notification of award, or through September 30, 2014.

OFFEROR: _____

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**The following bid (Page OF-5) is hereby submitted for the Comprehensive Routine and
Emergency Maintenance of Standby Generator Systems and Their Associated Equipment,
Including Refueling Services, at ICSD Radio Facilities**

As awards will be made by site, Offerors must bid on all items for a site for their bid to be compliant for that site. You may decline to bid on any site by entering the phrase "NO BID" in the boxes for that site. Blank items will be treated as "NO BID". One blank line item for a site will cause the entire site to be considered as "NO BID".

10. Standby Generator System and Its Associated Equipment at Humuula, Hawaii:

- 10A. Charge **per event** for Major Maintenance _____ \$
- 10B. Charge **per month** for Routine Maintenance _____ \$
- 10C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 10D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 10E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 10F. **One time** start of contract **cost** for special items (see specification) _\$

11. Standby Generator System and Its Associated Equipment at Hilo SOB, Hawaii:

- 11A. Charge **per event** for Major Maintenance _____ \$
- 11B. Charge **per month** for Routine Maintenance _____ \$
- 11C. Mobilization charge **per event** for Emergency Maintenance _____ \$
- 11D. Charge **per hour** for Emergency Maintenance beyond 2 hours _____ \$
- 11E. Service charge **per gallon** (above fuel cost) for refueling _____ \$
- 11F. **One time** start of contract **cost** for special items (see specification) _\$

12. Transfer Switch at Leiopapa A Kamehameha SOB, Oahu:

- 12A. Charge **per month** for Routine Maintenance (Transfer Switch ONLY) \$

Prices quoted by the Offeror in the bid proposal shall remain firm for the longer of sixty days following formal notification of award, or through September 30, 2014.

OFFEROR: _____

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PERMANENT INK OR TYPEWRITTEN.**

INSURANCE COVERAGE (if applicable)

	<u>Carrier</u>	<u>Policy No.</u>
1. Commercial General Liability	_____	_____
2. Worker's Compensation	_____	_____
3. Temporary Disability	_____	_____
4. Prepaid Health Care	_____	_____
5. Automobile Insurance	_____	_____

CONTRACTORS LICENSE

Offeror has attached a copy of its current State of Hawaii C-13 (Electrical Contractor 600 volts or less), C-15 (Electronic Systems Contractor), or C-15b (Telecommunications Contractor) Contractor's License.

REFERENCES

Offeror shall list below the names and addresses of two (2) companies or government agencies in the State of Hawai'i other than the State of Hawai'i government to whom it has provided or is currently providing maintenance services for permanently installed standby generators of 20 kVA or larger capacity that is substantially similar to those requested herein:

<u>Name</u>	<u>Address</u>	<u>Contact Person</u>	<u>Telephone No.</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____

OFFEROR: _____

WAGE CERTIFICATE
(For Service Contracts)

Subject: _____

(To be completed by Offeror)

Pursuant to Section 103-55, Hawaii Revised Statutes (HRS), I hereby certify that if awarded the contract in excess of \$25,000, the services to be performed will be performed under the following conditions:

All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with; and

The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

I understand that failure to comply with the above conditions during the period of the contract shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Payment in the final settlement of the contract or the release of bonds, if applicable, or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by section 103-55, HRS.

Offeror _____

Signature _____

Title _____

Date _____

1. INTRODUCTION

The State of Hawaii, Department of Accounting and General Services (DAGS), Information and Communication Services Division (ICSD) owns and operates standby generator systems at radio facilities located statewide. Twelve facilities are covered by this bid, and award will be made by facility. The ICSD's standby generators are rated Level-2 by the National Fire Protection Association and are hard wired into each facility's electrical distribution system through an intelligent Automatic Transfer Switch (ATS). These generator systems, Automatic Transfer Switches, and their associated chargers, fuel delivery systems, fuel polishing systems, and monitoring and alarm electronics provide backup electrical power for the vital government telecommunications equipment located at these facilities. They must be ready to function at all times in case of a commercial power failure. Four of these radio stations are located in remote areas that require the use of a 4WD vehicle to safely access the facility, while for some other sites, 4 wheel drive is recommended. The only access to the facility at Haleakala summit requires that the Offeror obtain special permits to travel and transport fuel through the U.S. National Park.

2. BID SPECIFICATIONS

2.0 Overview

For this contract, the successful Offeror shall be responsible for all actions to ensure that ICSD's emergency generators and their related control, fuel, and alarm systems are maintained, functioning, fully fueled, and ready to operate at all times. Service provided by the successful Offeror for this contract shall include, but are not limited to, routine, thorough inspections that include written reports, full system testing, and maintenance in accordance with the best commercial practice for maintaining standby motor generators and their related systems that include, but are not limited to, Automatic Transfer Switches, motor starting batteries, battery chargers, fuel storage and delivery systems, fuel polishing systems, monitoring, control, and alarm electronics, electronics and control system batteries, and the telemetry, status, control, and alarm interfaces on all of these systems.

All labor, wages (both regular and overtime), personnel travel costs, per diem, parts, materials, supplies, consumables (such as, but not limited, to filters, lubricants, fuel additives, and coolant), batteries belts, hoses, tools, equipment, safety gear, costs for storage, transportation (see exception for Emergency Maintenance), shipping, supervision, access fees, inspection fees, and taxes as required to accomplish the maintenance activities described herein shall be included in the contract price bid.

The employees of the Offeror who work on this contract shall show certification of having received and passed factory training on the specific units to be maintained. The successful Offeror shall possess and use for this work factory-approved electronic tooling and/or software that are required by the manufacturer to properly test, diagnose, repair, maintain, and adjust the units and their control systems.

2.1 Locations and Equipment

The list of equipment for each site in this section may not include all of the items and equipment at any given site that are to be maintained at that site, i.e. the successful Offeror is responsible for maintaining all of the items and for accomplishing work detailed elsewhere in this

specification regardless of the completeness and/or correctness of the list and/or details provided in this section.

Kilohana, Kauai

Located on Grove Farm property mauka of the agricultural fields above Lihue several miles past the end of Ehiku Road. Use of a four-wheel drive vehicle is required to safely access the radio facility.

Cummins Generator, 35 kVA	Model GGFD-5635505
Onan transfer switch, 225 Amp	Model OTCB-5635501
Phase = 1 Hz = 60 Wire = 3	
Cummins model 300-3152-03 2-Amp Battery Charger	
600 CCA SRM-27 starting battery	

Koko Head, Oahu

Located within the Hanauma Bay Nature Preserve about one mile south of Kalanianaʻole Highway, State Route 72, at 7501 Kalanianaʻole Highway, Honolulu.

Caterpillar Olympian Generator, 75 kVA	Model G75F3S
Day tank and 2x500 gallon diesel Convault tank	
Caterpillar transfer switch	Entelli-Switch 250
Sens FCA12-10-2411U Automatic Two Rate Charger	

Kahua Ranch, Hawaii

Located approximately 9 miles after turning onto Kohala Mountain Rd (Hwy 250) from Kawaihae Rd. in Waimea. After turning off Kohala Mountain Rd. the path takes a winding path through pastures on 1.4 miles of dirt road. 4 wheel drive is recommended. Care must be taken not to disturb the livestock by use of vehicle proximity or vehicle horns.

Cummins Generator, 62.5 kVA, 3-phase	Model DGCA-5703340
Day tank and 2x500 gallon diesel Convault tank	
Cummins Transfer Switch	Model BTPCB-5703608
Ronan X76CTM-N4 Tank Monitor	

Humuula, Hawaii

Humuula is located by turning off Saddle Rd. (Hwy 200) onto Mauna Kea Access Rd. The left turn to the site is located approximately 2.5 miles up Mauna Kea Access Rd. The dirt road to the site is approximately .75 miles long and 4 wheel drive is recommended.

Cummins Generator, 20 kVA	Model 20DL4
50 gallon SIMPLEX diesel fuel tank	Model SFT
Onan Transfer Switch	Model OTCU 125B 2G
Phase = 1 Hz = 60 Wire = 3	

Mauna Loa, Hawaii

Located about 8.6 miles off Saddle Rd. The site is located by turning off Saddle Rd. (Hwy 200) onto Hilo Kona Rd. for approximately 4 miles, and then turning left onto Observatory Rd. for 4.4 miles. At the end of the road, turn left and the site is on the right approximately .16 miles after the turn.

Caterpillar Generator, 15 kVA	Model CD015
75 gallon diesel fuel tank	
Olympian Transfer Switch	Model CTS010Y
Phase = 1 Hz = 60 Wire = 3	

Hilo State Office Building, Hawaii

Located at 75 Aupuni Street Hilo, Hawaii.

Cummins Generator

Model 90ENC

Propane tanks

Onan Transfer Switch

Model OT-225

Leiopapa A Kamehameha SOB, Oahu

Located at 235 S. Beretania St. Honolulu.

ASCO 7000 Series transfer switch, 150 Amp [Note: 480 Volts, 3-phase]

Catalog number E7ADTBA30150N5XC

Wailuku SOB

Located at 54 S High St. Wailuku, Maui

Caterpillar model D80-6, serial CAT00C44KD4B02172

3-phase, 80 kW

Caterpillar CBTS Transfer and Bypass Isolation Switch with Entelli-Switch MX250

Serial TSC02312

Sens NRG12-10-RC battery charger

Simplex SRS-100 day tank, w.o. 77072

Starting battery 950 CCA type 115-2421

Ronan X76CTM-N4 tank monitor

Puu Nana, Molokai

Located about 5 miles west of the Molokai Airport off Maunaloa Road, State Route 460. A ½ mile dirt access trail leads south to the facility. It is located near other communication facilities. This remotely located radio facility does not have a street address. Use of a four-wheel drive vehicle is required to safely access the Puu Nana radio facility.

Cummins model DGCA-5735724 Diesel Standby Generator, 50 kW, 3-phase, serial number G050810414 (wiring diagram 0612-6764) with PowerCommand 2100 digital generator set control.

Commercial grade generator starting battery, BCI number 4D, 1250 Cranking Amps at 32° F.

Cummins model BTPCB-5735725 225-Amp 3-phase Bypass Isolation Automatic Transfer Switch, serial number G050809785 (wiring diagram 0626-2334).

Starting battery charger 12-Volt, 15-Amp capacity (installed inside Automatic Transfer Switch).

Convault model RNE-250-3SF dual 250 gallon primary above ground diesel tank, serial number P560449.

Tramont UTRS-25 25 gallon Day Tank, serial number 59564 with Leeson A4C17DB2G pump motor.

Pneumercator model TMS2000 Tank Management System with LC1001.

Puu Nana does not have a fuel polishing system at this time.

Puu Kilea, Lanai

Located in the forest above Lanai City on Munro Trail, approximately 3 miles past the end of the paved section of the trail. This remotely located radio facility does not have a street address. Use of a four-wheel drive vehicle is required to safely access the Puu Kilea radio facility.

Kohler generator, 49 kVA, single phase
Model: 60REOZJC
Specification: GM57153-GA1
Controller Assembly: GM10193-1
Serial: 2264965
John Deere 3.0 L engine
Model: PE5030L019803

Generator Starting Battery rated at 820 CCA at 0°F

Kohler Power Systems Battery Charger
Part Number: D-292863

Kohler Bypass Isolation Transfer Switch
Model: KGP-DFNA-0260S (Material MODELK1)
Serial: K2265317
3-wire, 2-pole, 240-VAC, 260-Amps, single phase
Accessories: GM46258KA1 and GM46888KA1

RCI Technologies Automatic Fuel Recirculating System
Model: FRS-660

Ronan Continuous Tank Monitor
Model: X76CTM-N4-1
Serial: 26-7084

Day tank and 1000 gallon single section Convault above ground fuel tank

Haleakala, Maui

Located in the saddle area of the summit of Haleakala, the access road begins past the Haleakala National Park Summit Overlook parking area. This remotely located radio facility does not have a street address.

Cummins generator, 20 kVA
Model 20DL4

50 gallon SIMPLEX day tank with above-ground 300 gallon tank

Onan Transfer Switch
Model OTCU 125B 2G
Single phase, 3- wire

Haleakala does not have a fuel polishing system at this time.

Kaupulehu, Hawaii (West Hawaii)

Located just about a mile and a half mauka of the 29-mile marker of the Mamalahoa Highway with access via a steep and rutted trail. It is located near other communication facilities. This remotely located radio facility does not have a street address. Use of a four-wheel drive vehicle is required to safely access the Kaupulehu radio facility.

Caterpillar generator, 46.9 kVA, single-phase
Model D50-6S

Caterpillar Bypass Isolation Transfer Switch with GE Entelli-Switch MX250

RCI Technologies Automatic Fuel Recirculating System
Model: FRS-660

Ronan Continuous Tank Monitor
Model: X76CTM-N4

Day tank and 1000 gallon single section Convault above ground fuel tank

2.2 Summary Descriptions of Items to be Bid

In the sections to follow, detailed descriptions can be found regarding the items in this section described in general terms. The detailed descriptions in Sections 2.3 – 2.6 take precedence over the short descriptions in this section (2.2).

“Major Maintenance” refers to maintenance activities including, but not limited to, component replacement, which are done during the first service under the contract and every twenty-four (24) months thereafter. Major Maintenance activities are done in addition to the Routine Maintenance activities for the month that they are accomplished.

“Routine Maintenance” refers to monthly maintenance activities that include full operational testing of the standby generator, fuel system, and automatic transfer switch and their related systems and components.

“Emergency Maintenance” refers to maintenance activities that are the result of a request by the State to respond to an emergency situation, such as a generator non-start, automatic transfer switch failure, fuel system failure, low fuel condition, or extended run time. It includes all mobilization and travel costs as well as the first two hours of labor performed while on site. Do not bid on the work for any site in which your organization is unable to provide the expedited response to a request for emergency maintenance within the time specified.

“Charge per hour for Emergency Maintenance beyond 2 hours” refers to the hourly rate charged, regardless of whether such time is charged as straight or overtime by the employee, for work on site during an Emergency Maintenance activity that occurs after the first two hours of on-site work for that activity.

“Service charge per gallon (above fuel cost) for refueling” refers to the special handling and transportation costs charged in addition to the local on-street cost of acquiring the diesel fuel provided. This charge includes all costs to transport the fuel to the remote radio facility (including permitting and inspection costs, if applicable), deposit the fuel in the external tank, add fuel conditioners as required herein, demobilize, and clean up. Cost for fuel shall be billed as a separate line item and shall not exceed the lowest cost per gallon of diesel available on that island. A copy of the fuel purchase receipt must accompany the billing submitted for each event. One refueling event shall provide at least 50 gallons of diesel delivered to the remote radio facility. Use of bio-diesel is prohibited.

“One time start of contract cost for special items” refers to work to be done or items to be furnished and installed by the Contractor that are unique to each facility, that, at the State’s option, may be purchased by the State to be done by the Contractor at the beginning of the contract.

2.3 **Major Maintenance**

The work in this section shall be done at each major maintenance event in accordance with the original equipment manufacturer’s specifications for a major maintenance event including, but not limited to, all procedures, adjustments, replenishment, and/or replacement recommended. Even though the major maintenance interval set by the ICSD may be shorter, i.e. more conservative, than that recommended by original equipment manufacturer(s), the Contractor is required to perform all major maintenance activities at the ICSD selected interval, currently once at the start of the contract and then 24 months thereafter provided the 12 month contract extensions are enacted by ICSD.

- Verify and post on the front of the units the login procedure and password for the generator, Automatic Transfer Switch, and any other control system related to the emergency generator.
- Replace the generator starting battery. Remove the retired battery from the facility and recycle it in an environmentally safe manner. Record the make, model, and serial numbers of both the retired and the new battery.
- Replace engine oil and filter(s).
- Replace gearbox oil (if equipped).
- Change drive belts and, if applicable, radiator fan coupling device. Adjust tensioning and re-check tension during the next month’s Routine Maintenance.
- If equipped, replace spark plugs.
- Replace engine air filters.
- Drain coolant. Flush and clean radiator. Replace all hoses and thermostat(s). Refill with coolant and coolant conditioner.
- Do a complete engine tune-up.
- Inspect generator bearing(s) and bearing bracket(s). Lubricate bearing(s) if required.
- Inspect silencer and silencer mounting hardware. Adjust, repair, or replace as necessary.
- Replace all batteries in the Automatic Transfer Switch control electronics and, if equipped, batteries in all of the electronic systems for the chargers, fuel delivery systems, fuel polishing systems, and monitoring and alarm systems that are part of the system. The Contractor shall dispose of or recycle all removed batteries in an environmentally responsible manner.
- Inspect engine mounts for correct installation and re-torque attachment points to specification.

- Remove rust from exterior fuel piping, touch up with an oil based rust inhibitor and top coat with gloss black oil based paint. Use paints that are formulated for use on outside steel piping. Remove rust from and touch up paint the fixtures on the main fuel tank and the brackets that support the exterior exhaust system components. Do not paint over labels or signage.
- **Fully exercise the Automatic Transfer Switch** using the site as a load and operate the system from a cold start for 1 hour at full station load. Prior to starting the exercise (by shutting off the utility main breaker at the service meter), operate the Day Tank controls to reduce the fuel level in the Day Tank to be less than one-quarter full. Verify proper operation of the Day Tank refill operation and be sure to note that overfill does not occur, i.e. that the pumps turn off once the Day Tank is filled. Check for leaks, loose connections, and/or abnormal operating conditions. Check and record all gauges, oil pressure, rpm, generated voltage, current, and frequency, and engine jacket water temperature. Verify and record the operation of the Automatic Transfer Switch delay timers for “transfer delay,” “return to utility,” and “engine cool down” times. Do not reset or short cycle the operation of the timers.

Within five working days of performing the Major Maintenance activity, provide the ICSD a full written report. The written service report shall describe all work performed during the visit, list all parts removed, and list with part numbers and, if available, serial numbers and date codes all new software, parts, and lubricants used. The report shall include embedded photographs to depict site and equipment conditions, broken and or replaced parts, and the final condition of the maintained units. The report shall also include a list of spare parts kept in current stock by the Contractor in support of this project.

Other than the starter battery, oil filter, and fluids which are to be removed upon exit, the Contractor shall leave all removed and replaced components on site until the next routine maintenance activity to give the ICSD the opportunity to inspect them. At the next routine maintenance, remove and properly dispose all items.

2.4 **Routine Maintenance**

The work in this section shall be done each month, in the same week each month if at all possible, in accordance with the original equipment manufacturer’s specifications.

- Visually inspect the areas inside and outside that are around and between the fuel tanks and the fuel piping. Note if any spillage or leaks have occurred. Immediately report suspicion or observation of a diesel spill to the ICSD Assistance Center at 808-586-1900 and the ICSD Radio Engineer.
- While inspecting the remotely located facility, note if there are any signs of attempted break-in, lock tampering, theft, or vandalism. Document any signs noted in the written report.
- Drain fuel line water separator(s) if so equipped.
- Verify proper operation of the coolant heater.
- Check for and repair fuel, oil and coolant leaks.
- Check coolant and oil levels. Fill as required.
- Check generator starting battery electrolyte levels and specific gravity. Measure and record specific gravity. Fill electrolyte as required.
- Check generator starting battery charger operation and verify charge rate is acceptable. Record charge rate. Adjust or repair as necessary. Check and, if necessary, tighten the connections to the generator starting battery terminal post. The Contractor shall

immediately replace, at no charge to the State, any generator starting battery that has failed within two years of its installation by the Contractor.

- Inspect cooling system hose(s). Replace if necessary.
- Check air filter. Clean or replace as necessary.
- Check air intakes, air outlets, and exhaust system for proper operation. Adjust or repair as necessary. Report any obstructions or partial blockages. Check that louvers, if equipped, open and close freely. Lubricate with Tri Flow Superior Lubricant or equivalent lubricant formulated with Polytetrafluoroethylene (PTFE). Use of WD 40 is prohibited.
- At radio facilities with forced air intake systems verify operation of intake fans and vents.
- Check belts for proper tension and wear. Adjust or replace as necessary.
- Check gauges and indicators for proper operation. Adjust or replace as necessary.
- Check governor speed and adjust for correct frequency at full load.
- Check engine alternator charge rate. Adjust or repair as necessary.
- Measure and record fuel levels in main tank (both sections, if equipped) and the day tank.
- Ensure that the areas around the motor generator, transfer switch, and in-building fuel system are free from combustible material and debris. Relocate combustible items such as manuals or supplies to the radio equipment room. Remove debris and clean the generator room.
- Record and photograph any malfunctioning, corroded, and/or leaking piping, valves, and gauges in the fuel system.
- Notify the Assistance Center and the Radio Engineer immediately of any problems or other improper conditions, including safety hazards with either the equipment or the facility so that possible corrective action can be performed or coordinated while maintenance personnel are still at the site
- **Fully exercise the Automatic Transfer Switch** using the site as a load and operate the system from a cold start for at least 10 minutes at full station load. Prior to starting the exercise (by shutting off the utility main breaker at the service meter), operate the Day Tank controls to empty the Day Tank to be less than one-quarter full. Verify proper operation of the Day Tank refill operation and be sure to note that overfill does not occur, i.e. that the pumps turn off once the Day Tank is filled. Check for leaks, loose connections, and/or abnormal operating conditions. Check and record all gauges, oil pressure, rpm, generated voltage, current, and frequency, and engine jacket water temperature. Verify and record the operation of the Automatic Transfer Switch. It is acceptable to manually shorten or reset the "return to utility" and "engine cool down" delay timers.

Within five working days of performing the Routine Maintenance activity provide the ICSD a full written report. The written service report shall describe all work performed during the visit, list all parts removed, and list with part numbers and, if available, serial numbers and date codes all new software, parts, and lubricants used. The report shall include embedded photographs to depict site and equipment conditions, broken and or replaced parts, and the final condition of the maintained units.

Other than the starter battery, oil filter, and fluids which are to be removed upon exit, the Contractor shall leave all removed and replaced components on site until the next routine maintenance activity to give the ICSD the opportunity to inspect them. At the next routine maintenance, remove and properly dispose all items.

2.5 **Emergency Maintenance**

The Contractor shall provide emergency maintenance and repair response services on an on-call basis for the duration of the contract. The Contractor shall provide the State with Hawaii based telephone support that includes a 24-hour contact number (answering service or pager) and shall acknowledge requests for emergency services within two (2) hours from the time of the request. The Contractor shall provide a contact number and response 24 hours a day, 7 days a week, including all weekend days and all holidays. Emergency maintenance and repair response shall commence within the following time limits after initial notification:

Mt. Kilohana	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
Koko Head	Within six (6) hours of initial notification.
Kahua Ranch	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
Humuula	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
Mauna Loa	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
Hilo SOB	Within six (6) hours of initial notification.
LAK SOB, Oahu	Within six (6) hours of initial notification.
Wailuku SOB	Within six (6) hours of initial notification.
Puu Nana, Molokai	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
Puu Kilea, Lanai	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
Haleakala, Maui	Within six (6) hours of initial notification.

Kaupulehu, Hawaii

Within six (6) hours of initial notification.

If emergency maintenance and repair services cannot commence within the required time, the Contractor shall notify the ICSD in writing as to the reason for the delay and shall provide an expected time of return to service.

When possible, the ICSD will work with the Contractor to permit maintenance, repair, or refueling operations that do not impact system availability to be resolved at the Contractor's next regularly scheduled visit.

Air and ground transportation costs for Emergency Maintenance provided for Puu Nana, Molokai or Puu Kilea, Lanai shall be billed at the actual cost of the travel and the Contractor shall submit copies of the air and ground transportation billings with the invoice provided only for Emergency Maintenance for Puu Nana or Puu Kilea. All other costs for Emergency Maintenance provided for Puu Nana or Puu Kilea including, but not limited to, internal processing fees of the Contractor, shall be included in the fixed price bid for Emergency Maintenance. Air and ground transportation costs for Emergency Maintenance provided for Haleakala, Maui or Kaupulehu, Hawaii shall be included in the price bid for Emergency Maintenance.

Within five working days of performing any Emergency Maintenance activity, provide the ICSD a full written report. The written service report shall describe all work performed during the visit, list all parts removed, and list with part numbers and, if available, serial numbers and date codes all new software, parts, and lubricants used. The report shall include embedded photographs to depict site and equipment conditions, broken and or replaced parts, and the final condition of the maintained units. The Contractor shall include in the Emergency Maintenance report reasons why the failure occurred and recommendations on how to prevent a reoccurrence of the emergency.

Other than the starter battery, oil filter, and fluids which are to be removed upon exit, the Contractor shall leave all removed and replaced components on site until the next routine maintenance activity to give the ICSD the opportunity to inspect them. At the next routine maintenance remove and properly dispose all items.

2.6 Refueling

Kilohana is excluded from refueling for the purposes of this solicitation. Notify ICSD Technical Contact if the propane tank falls below 50%. This tank is to be filled by Kauai Gas.

The Contractor shall ensure that the fuel level in the main tank (both sections if the main tank is dual section) at all other sites is kept at or above the 75% level. During Hawaii's hurricane season (June 1 through November 30), the Contractor shall keep the diesel fuel tanks as close to full as prudent and possible. Refueling shall be accomplished either during Routine Maintenance visits or as an Emergency Maintenance activity. The "Service charge per gallon (above fuel cost) for refueling" shall be added to the Routine Maintenance or Emergency maintenance cost, as applicable. The "Service charge per gallon (above fuel cost) for refueling" refers to the special handling and transportation costs charged by the Contractor in addition to the cost to acquire fuel locally on-island. It includes transportation of the fuel to the remote radio facility (including permitting and inspection costs, if applicable), labor and equipment to transfer the fuel to the external tank, required fuel conditioners, and costs to demobilize and clean up.

The cost to acquire fuel shall be billed as a separate line item and shall not exceed the lowest cost per gallon of diesel available on that island. The Contractor shall submit a copy of the fuel purchase receipt with the billing submitted for each refueling activity. One refueling event shall provide at least 50 gallons of diesel delivered to the remote radio facility.

Use of bio-diesel is prohibited.

Prior to any fuel replenishment, the Contractor shall add to the main fuel tank a diesel fuel treatment equivalent to FPPC Chemical Company's "Fuel Power" that is water-dispersing, decarbonizing, and contains an Environmental Protection Agency approved algaecide for diesel fuel.

2.7. **Clean Up**

The Contractor shall remove and dispose of all left over lubricants and solvents in accordance with federal, State, and local environmental regulations. The Contractor shall remove and properly dispose of all removed parts, rusted pieces, and hardware.

The Contractor shall keep the job sites free of debris, litter, refuse, etc. The Contractor shall remove all tools, equipment, and machines from the areas upon completion of the work.

2.8. **Required Written Reports**

Contractor shall prepare and maintain an inspection/maintenance service checklist which shall include the inspection/maintenance service date and the name(s) of the personnel who performed said inspection/maintenance service.

See attached Appendix for "Standby Generator System Routine Maintenance Checklist."

2.9. **Items Outside the Scope of this Solicitation**

The Contractor is **not** responsible for:

- Telecommunications DC power plants (i.e. -48 VDC rectifiers and station batteries);
- Air conditioning control panels;
- Repair or replacement of fuel system piping and valves [Note however that malfunctioning, corroded, and/or leaking piping and valves shall be noted in the written report provided by the Contractor]; and
- Systems and wiring that connect to the downstream side of the demarcation point of the telemetry, status, control, and alarm interfaces of the standby motor generators and their related systems, including but not limited to, Automatic Transfer Switches, battery chargers, fuel storage and delivery systems, fuel polishing systems, and the electronic systems for monitoring, control, and alarms.

The Contractor is also not responsible for any one-time repair not otherwise specified herein where the cost of parts and materials (including shipping costs and taxes but excluding labor and transportation costs) for the one-time repair event exceeds \$500.00 (a "Repair"). If a Repair is necessary, the Contractor will submit a quote for the total cost of the Repair to the Contract Administrator. The Contractor must receive approval from the Contract Administrator

prior to proceeding with the Repair. Costs for any Repair performed without the prior approval of the Contract Administrator shall be assumed in full by the Contractor.

2.10 **Known Site Issues**

The ICSD is not aware of any issue that would impact the requested maintenance activities at the Kilohana, Kauai facility.

The ICSD is not aware of any issue that would impact the requested maintenance activities at the Kokohead, Oahu facility.

The ICSD is not aware of any issue that would impact the requested maintenance activities at the Waimanalo Ridge, Oahu facility.

The ICSD is aware that the main tank alarm system at the Puu Nana, Molokai facility is non-functional. Repair of that alarm system is beyond the scope of the maintenance effort requested herein as it requires a redesign and re-installation of that alarm system. The Contractor is not responsible for the main tank alarm system at the Puu Nana until it is repaired by the ICSD.

The ICSD is not aware of any issue that would impact the requested maintenance activities at the Puu Kilea, Lanai facility.

The Department of Accounting and General Services has initiated a capital project to upgrade the Haleakala, Maui facility, DAGS Job No. 15-10-0690 "ICSD Haleakala Radio Facility, Site Renovation and Infrastructure Improvements." If completed, that project would replace the existing standby generator system at that facility. When that happens, the ICSD expects to exercise its option to terminate the contract for Haleakala standby generator maintenance issued as part of this solicitation.

The ICSD is not aware of any issue that would impact the requested maintenance activities at the Kaupulehu, Hawaii facility.

2.11 **Pre-Bid Examination of Service Areas and Equipment**

ICSD recommends that Prospective Offerors visit each site to inspect the equipment listed herein; familiarize themselves with the existing conditions; understand the amount and type of work to be performed. No additional compensation will be made due to any misunderstanding or error regarding conditions at the sites and facilities or the amount and type of work to be performed by the Offeror. Offeror shall consider ICSD equipment and facilities to be in "as is" condition as the ICSD cannot guarantee their status. Prospective Offerors are responsible for their travel expenses related to site visits they make for the purpose of inspecting the standby generator systems, equipment, facilities, and overall conditions.

The ICSD has scheduled **one-time-per-site inspection visits** as follows:

<u>SITE</u>	<u>DATE</u>
Day 1:	May 12, 2014
Kilohana	9:00 AM
Meet at gate on Ehiku St. Lihue, Kauai.	

Day 2: May 13, 2014
Koko Head 8:30 AM

Meet at Hanauma Bay gate to Kokohead facility.

LAK SOB 2:00 PM

Meet in LAK lobby, 235 South Beretania Street, Honolulu

Day 3: May 14, 2014
Haleakala, Maui 8:30 AM

Meet at Krispy Kreme, 433 Kele Street, Kahului, Maui

Wailuku SOB 1:00 PM

Meet at Wailuku SOB, 54 South High St, Wailuku, Maui

Day 4: May 15, 2014
Puu Kilea, Lanai 7:30 AM

Meet at the Blue Ginger Cafe, 409 7th, Lanai City

Day 5: May 16, 2014
Puu Nana, Molokai 8:30 AM

Meet at DAGS Maintenance Baseyard,
45 Makaena Place,
Kaunakakai, Molokai, HI 96748

Day 6: May 19, 2014
Kaupulehu, Hawaii 9:00 AM

Meet at the Pine Tree Cafe,
73-4040 Hulikoa Drive, Kailua-Kona, Hawaii

Kahua Ranch 1:00 PM

Meet at Waimea McDonalds,
65-1154 Mamalahoa Hwy, Waimea, Hawaii.

Day 7: May 20, 2014
Hilo SOB 8:00 AM

Meet at Hilo SOB
75 Aupuni Street Hilo, Hawaii.

Humuula 8:00 AM

Meet at Hilo SOB
75 Aupuni Street Hilo, Hawaii.

Mauna Loa 8:00 AM

Meet at Hilo SOB
75 Aupuni Street Hilo, Hawaii.

Notify ICSD if you intend to attend the inspection visits no later than 2:00 PM Thursday May 8, 2014. If not notified by any vendor, ICSD staff are not required to attend a site inspection visit and no access will be possible.

The State and the ICSD will **not be responsible for the Offeror's inability to bid** due to either: 1) the unavailability of ICSD personnel to arrange and/or accompany Offerors on site visits, other than the dates and times for the official site inspection visits described above; or 2) inability of Offeror's representative to be present for any of the site inspection visits when they are scheduled.

Offerors are not required to visit the facilities to submit a bid but are **recommended** to do so.

Offerors are **not permitted** to visit the ICSD sites and facilities **without an ICSD escort**.

Submission of bid shall be evidence that the Offeror has familiarized himself/herself with the various equipment and site locations; understands and shall comply with the specifications if awarded the contract.

No additional compensation shall be made because of any misunderstanding regarding the conditions at the sites, or the amount and type of work to be performed.

2.12 **Questions**

Questions regarding the bid specifications must be submitted in writing to the ICSD and be received by the ICSD **no later than 4:00 PM Wednesday, May 21, 2014**. Although submittal of questions via electronic mail is acceptable, the State of Hawaii is not responsible should the sender's electronic mail be compromised, delayed, or discarded for any reason (e.g. for size in excess of 10 Mb).

3. **SPECIAL PROVISIONS**

3.1 **Site Access and Security**

The Offeror shall follow the ICSD's site security and access procedures as they now exist or may be amended from time to time. The Offeror shall provide personal background information for its employees and a unique employee identifying number such as last four digits of employee Social Security number or similar unique number.

The Contractor shall not show, give tours, or invite third parties to view or visit any of the ICSD facilities or inspect ICSD equipment or spares without the express written permission of the ICSD Radio Engineer. Unless otherwise arranged and approved in advance with the ICSD Radio Engineer, all keys necessary for site access shall be picked up from and returned to the ICSD Assistance Center on Oahu. The Assistance Center is located in the basement of the Kalanimoku Building at 1151 Punchbowl Street, Honolulu, HI 96813. Keys necessary for site access to Kaupulehu may also be picked up from the ICSD in the basement of the Hilo State Office Building at 75 Aupuni Street, Hilo, Hawaii 96720.

3.2 **Special Access Requirements for Haleakala**

At no additional cost to the State, the Contractor shall obtain all necessary clearances and insurance and pay any fees required regarding the transit of commercial vehicles through the Haleakala National Park for any and all work and/or refueling required during the term of the contract. The State and/or the ICSD have no control over National Park Service (NPS) procedures and processes. We understand that the NPS point of contact is their Business and

Revenue Program Specialist who can be contacted via telephone at (808) 572-4440 or email at hale_commercial_manager@nps.gov. The most recent approval by the NPS for vendor transit through Haleakala National Park used NPS Form 10-114 specific to the Haleakala National Park as revised June 2012.

3.3 Tools, Equipment and Supplies

The Contractor shall provide all necessary parts (in accordance with the terms described herein), materials, supplies, and consumables (including but not limited to filters, lubricants, coolant and touch up paint); any additional tools, equipment, machines, and safety equipment required. Storage of any of these items in the ICSD's facilities is prohibited without the prior written consent of the ICSD Radio Engineer. Contractor shall take full responsibility for the security and well-being of the Contractor's tools, equipment, machines and supplies used or stored on the jobsite. The Contractor shall hold the State harmless for any damage to or loss of Contractor's tools, equipment, machines, and supplies used or stored at the ICSD facilities.

3.4 Safety

The Contractor and its employees shall comply with all applicable health and safety regulations including, but not limited to, rules and regulations of the Federal Occupational Safety and Health Administration (OSHA) and the State of Hawaii Department of Labor and Industrial Relations (DLIR).

The Contractor and its employees shall comply at all times with standards regarding work activities in and around radio transmission facilities including, but not limited to, OSHA General Industry Standard 29 CFR 1910.268 Sub-Section p. Contractor must ensure that all employees are familiar with the hazards associated with exposure to radio-frequency (RF) radiation and the precautions that must be taken when working in a "controlled" RF environment as described in FCC Rules, Part 1, Section 1.310, as the same exists or may be amended from time to time.

Alcoholic beverages, illegal drugs, fireworks, and firearms are prohibited at all facilities.

Hunting is prohibited on or near ICSD facilities or while commuting to or from working at an ICSD facility.

All ICSD radio facilities are smoke free; smoking is prohibited at all times inside any of the ICSD facilities, within the fence line of the radio facility compound, and within 20 feet of any door, window, or air intake.

The Contractor and its employees must obey all signs and posted notices.

4. OFFEROR QUALIFICATIONS

4.0 Factory Certification, Training, and Tooling

At the time the bid is submitted, the Contractor must also submit, for all employees who will work on this contract, certifications of having received and passed factory training on the specific generator and Automatic Transfer Switch units to be maintained that permit the employees to perform warranty repair service and to adjust factory settings on the units. The Contractor shall possess and use for this work factory approved electronic tooling and/or

software that are required by the manufacturer to properly test, diagnose, repair, maintain, and adjust the units and their control systems. Offerors who need to train employees and/or acquire electronic tooling and/or software must include the cost of such training in the "One time start of contract cost for special items" bid tab. The Offeror agrees and understands that all training and acquisition of specialty electronic tooling and/or software must be completed, all at the Offeror's cost and risk, within 60 days after the bid due date and prior to the contract execution. Offerors not meeting these criteria shall have their bid disqualified.

4.1 Experience

Offeror shall have a minimum of two (2) consecutive years of experience (immediately prior to the bid opening date), in the field of maintenance and repair of standby generator systems, Automatic Transfer Switches, and their associated chargers, fuel delivery systems, fuel polishing systems, and monitoring and alarm electronics.

4.2 Personnel Qualifications

All personnel servicing the motor generator equipment shall have a minimum of one (1) year of experience in the field of maintenance and repair of standby generator systems, Automatic Transfer Switches, and their associated chargers, fuel delivery systems, fuel polishing systems, and monitoring and alarm electronics.

4.3 Spare Parts

Offeror shall maintain at their location a stock of common spare parts and materials, as recommended by the manufacturer, required for routine maintenance and repair of standby generator systems, Automatic Transfer Switches, and their associated chargers, fuel delivery systems, fuel polishing systems, and monitoring and alarm electronics. The Offeror shall include list of parts stocked by the Offeror in the written report provided for the Major Maintenance activity.

5. BID PREPARATION

5.1 Legal Name

Offeror is requested to submit its offer using Offeror's exact legal name as registered with the DCCA, if applicable; and to indicate exact legal name in the appropriate space on OFFER FORM, PAGE OF-1. Failure to do so may delay proper execution of the contract.

Offeror's authorized signature shall be an original signature in blue ink. If OFFER FORM, PAGE OF-1, is unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

5.2 Bid Quotation

The bid prices shall be all inclusive and include all costs for labor, regular wages and benefits, overtime wages; personnel travel costs and per diem; parts (in accordance with the terms described herein), materials, consumables, and supplies; any additional tools, machines, equipment and safety equipment required; costs for storage, transportation, shipping; costs for

management and supervision; taxes; and costs for commercial general liability insurance; as required herein by the State as necessary to accomplish the routine and emergency maintenance of standby generator systems and their associated equipment, including refueling services, at ICSD radio facilities as specified herein.

5.3 **Hawai'i General Excise Tax License**

Offeror shall submit a current Hawai'i General Excise Tax I.D. number in the space provided on OFFER FORM, page OF-1, thereby attesting that Offeror is doing business in the State, and that Offeror will pay such taxes on all sales made to the State.

5.4 **Responsibility of Offeror**

Offeror is advised that if awarded a Contract under this solicitation, Offeror shall, upon award of the Contract, furnish proof of compliance with the requirements of §103D-310(c), HRS:

1. **Chapter 237, tax clearance;**
2. **Chapter 383, unemployment insurance;**
3. **Chapter 386, workers' compensation;**
4. **Chapter 392, temporary disability insurance;**
5. **Chapter 393, prepaid health care; and**
6. **Chapter 103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.**

The Offeror, if awarded a Contract pursuant to this IFB, shall comply with all laws governing entities doing business in the State. The Offeror shall obtain and provide to the State:

Responsibility of Lowest Responsive Bidder. Reference §103D-310(c), HRS. A compliance document (see **Hawai'i Compliance Express** below) must be submitted with the bid at the time the bid is submitted.

Final Payment Requirements. Contractor is required to submit a compliance document for final payment on the contract.

In addition to the compliance document, an original "Certification of Compliance for Final Payment" (SPO Form-22), will be required for final payment. A copy of the Form is available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from under the "Quick Links" menu at the right of the webpage.

Hawaii Compliance Express. Vendors shall use the Hawaii Compliance Express (HCE) to show proof of compliance with the requirements of § 103D-310(c), HRS. The HCE allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov> for an annual fee payable to Hawaii Information Consortium, LLC (currently \$12.00) to acquire a "Certificate of Vendor Compliance," which provides current compliance status as of the issuance date. The "Certificate of Vendor Compliance" indicating that vendor's status is compliant with the requirements of §103D-310(c), HRS, is accepted for both contracting purposes and final payment.

Timely Submission of all Certificates. If a valid Certificate of Vendor Compliance is not submitted on a timely basis as determined by the Procurement Officer for award of a contract, an offer otherwise responsive and responsible may not receive the award.

5.5 Offer Guarantee

A bid security deposit is NOT required for this IFB.

5.6 Original Proposal and Copies to be Submitted

One (1) original and four (4) copies shall be submitted on the forms specified in this IFB. The original shall be clearly marked "ORIGINAL" and copies shall be clearly marked "COPY." It is imperative that the Offeror submit only one original and the required number of copies. The State will not provide any reimbursement for the cost of developing, presenting, submitting, or evaluating any proposal in response to this IFB.

Offeror is encouraged to submit typewritten offers. If handwritten, it should be clearly printed. Offeror is cautioned that illegible offers of any item(s) may be automatically rejected.

5.7 References

Offeror shall list on Offer Form Page OF-3 at least two references in the State of Hawaii, other than the State of Hawaii government, for whom Offeror has performed or is currently providing landscape maintenance services.

5.8 Insurance

Offeror shall provide insurance information as requested on Offer Form Page OF-6.

5.9 Rate of Wages & Wage Certificate

Offeror is required to complete and submit a Wage Certificate by which the Offeror certifies that wages will be paid and work will be performed in accordance with HRS Section 103-55.5 and Chapter 104.

6. CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

Offerors are hereby notified of the applicability of HRS section 11-355, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body. For more information, FAQs are available at the Campaign Spending Commission webpage (<http://hawaii.gov/campaign>). Information on spending issues should be directed to the Campaign Spending Commission's Executive Director or its General Counsel at (808) 586-0285.

7. AWARD

7.0 Method of Award

Award, if any, will be made to the **responsive and responsible Offeror submitting the lowest CALCULATED ANNUAL COST** for a site. The CALCULATED ANNUAL COST (per site) is the sum of:

1.0 times item A (Major Maintenance);
12.0 times item B (Routine Maintenance);
1.0 time item C (Emergency Maintenance);
4.0 times item D (Extra Hours for Emergency Maintenance);
200.0 times item E (Refueling Service Cost Per Gallon); and

Offeror need not bid on all sites, but **must bid on all items for an individual site** to have a qualifying bid for an award for that individual site.

7.1 Certifications Required Prior To Award

Prior to awarding contract(s), the State will require certification of the following insurance coverage, in accordance with the requirements specified below in Section 9.0:

**Commercial General Liability (occurrence form); and
Worker's Compensation.**

Prior to awarding contract(s), the State will require certification of the following insurance coverage, **if applicable**:

**Temporary Disability
Unemployment Insurance
Prepaid Health Care
Automobile Insurance**

7.2 Acceptance of Offer

Acceptance of offer, if any, will be made **within sixty calendar days** after the opening of offers. Prices quoted by the Offeror in the bid proposal shall remain firm for the longer of sixty days following formal notification of award, or through September 30, 2013.

8. CONTRACT

8.0 Contract Execution

The State shall forward a formal contract to the successful Offeror for execution. The contract shall be signed by the successful Offeror and returned within ten (10) days after receipt of the Offeror. NO PERFORMANCE AND PAYMENT BONDS ARE REQUIRED.

8.1 **Contract Administrator**

For the purpose of this contract, Ms Sharon N.H. Wong, ICSD Acting Administrator, or her duly appointed representative, is designated the Contract Administrator (CA). Ms. Wong may be contacted at telephone: (808) 586-1910 or facsimile: (808) 586-1922.

8.2 **Technical Representative**

For the purpose of this contract, Mr. Robert Hlivak, is designated the Technical Representative. Mr. Hlivak may be contacted at telephone: (808) 586-1930 x613, or facsimile: (808) 586-1962.

8.3 **Term of Contract**

The term of contract shall be for twelve (12) months from the commencement date listed on the Notice to Proceed.

Unless terminated, the contract may be extended without re-bidding, upon mutual agreement in writing between the State and the Contractor, prior to the expiration date, for not more than four (4) additional twelve (12) month periods, or parts thereof without rebidding. Provided, however, the contract price for the extended period shall remain the same or lower than the initial contract price.

If the extension is mutually agreed upon, Contractor shall be required to execute a supplement to the contract.

The Contractor or the State may terminate the extended contract at any time, specifying the part of the Contract terminated and when termination becomes effective.

8.4 **Notice to Proceed (NTP)**

No work shall be undertaken by the successful Offeror prior to the commencement date specified on the Notice to Proceed. The State is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the successful Offeror prior to the official starting date.

9. **LIABILITY INSURANCE**

NOTE: Minimum insurance requirements are different from those in prior bid specifications.

Contractor shall maintain insurance acceptable to the State in full force and effect throughout the term of the contract. The policy or policies of insurance maintained by the Contractor shall provide the following limit(s) and coverage(s):

Coverage Limits

Commercial General Liability
(occurrence form)

Minimum bodily injury and broad form
property damage combined single limits of liability of
\$1,000,000 combined single limit per occurrence for
bodily injury and property damage

Workers Compensation

Minimum coverage of
Statutory: \$250,000 each accident,
Liability: \$100,000 disease per each employee, and
\$500,000 disease policy limit

Automobile Insurance

Minimum coverage of \$1,000,000 per accident

Each insurance policy required by this contract shall contain the following clauses:

1. "This insurance shall not be canceled, limited in scope of coverage or non-renewed until after 30 days written notice has been given both to the State of Hawaii, DAGS, State Procurement Office, P. O. Box 119, Honolulu, Hawaii 96810-0119 and the State of Hawaii, DAGS, ICSD, Kalanimoku Building, 1151 Punchbowl Street, Room B-10, Honolulu, Hawaii, 96813."
2. For Commercial General Liability coverage, "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
3. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The Contractor shall maintain the minimum insurance required in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements. The policy or policies of insurance maintained by the Contractor shall provide the limits and coverages specified herein.

The Contractor shall deposit with the State of Hawaii, DAGS, ICSD on or before the effective date of the contract, certificate(s) of insurance necessary to satisfy the State that the insurance provisions of this IFB and the contract have been complied with and to keep such insurance in effect and the certificate(s) therefor on deposit with the State during the entire term of the contract, and any extensions thereof. Upon request by the State, Contractor shall furnish a copy of the policy or policies.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under the contract, entitling the State to exercise any or all of the remedies provided in the contract for a default of the Contractor.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability or to fulfill the indemnification provisions and requirements of the contract. Notwithstanding said policy or policies of insurance, the Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with the contract.

10. SERVICE REQUIREMENTS

The State reserves the right to delete standby generator site(s) in its or their entirety from any contract. Where an individual component(s) have been replaced (such as a transfer switch, fuel alarm system, or related subassemblies) said component(s) shall be made part of the contract at no additional cost to the State. Any adjustments to the contract shall be made through a contract modification.

11. INSPECTION

All work done and all materials furnished shall be subject to inspection and approval by the ICSD so as to ascertain that the services rendered are in accordance with requirements and intentions of the Specifications and Special Provisions.

12. INVOICING AND PAYMENT

The Contractor shall submit on a monthly basis, an original and three copies of the invoice to:

Department of Accounting and General Services
Information and Communication Services Division
P.O. Box 119
Honolulu, HI 96810-0119
Attention: Fiscal Office

Payment shall be made to the Contractor at the contracted price upon certification by the State that the Contractor has satisfactorily performed the required services each month. All invoices shall reference the contract number.

A current HCE certificate of compliance must accompany the invoice for final payment on the contract.

13. LIQUIDATED DAMAGES

Refer to Section 9 of the General Conditions. Liquidated damages are fixed at the sum of FIFTY DOLLARS (\$50.00) for each and every calendar day the Contractor delays in the completion of any item of his contract after the required date of said completion.

14. AUTHORITY

This IFB is issued under the provisions of the State Procurement Code (HRS Chapter 103D) and the State Procurement Office's applicable Directives, Circulars and administrative rules. All prospective Offerors are charged with the presumptive knowledge of all applicable legal authorities. Submission of a valid executed offer by any prospective Offeror shall constitute admission of such knowledge on the part of such prospective Offeror.

Any agreement arising out of this solicitation is subject to the approval of the Department of the Attorney General as to form, and to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

15. PROTEST

A protest based upon the content of the solicitation shall be submitted in writing within five (5) working days after the aggrieved persons knows or should have known of the facts giving rise thereto; provided further that the protest shall not be considered unless it is submitted in writing prior to the bid opening date.

A protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract. The notice of award letter(s), if any, resulting from this

solicitation shall be posted on the Procurement Reporting System, which is available on the SPO website: <http://www.hawaii.gov/spo2/source/>.

Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Procurement Officer, ICSD, 1151 Punchbowl Street, Room B-10, Honolulu, Hawaii 96813.

16. CANCELLATION OF SOLICITATIONS AND REJECTION OF OFFERS

The solicitation may be cancelled or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in Sections 3-122-95 through 3-122-97, Hawaii Administrative Rules.

STANDBY GENERATOR SYSTEM ROUTINE MAINTENANCE CHECKLIST
 State of Hawaii, Department of Accounting & General Services
 Information and Communication Services Division, Telecommunication Services Branch

Site Name/Location (City or Island)			Vendor or Agency		Service Technician (Print Name)	
Date	Time IN	Time OUT	Engine Hours - Start	Engine Hours - End	Transfer Fuel Level	Main Tank Fuel Level

PRESTART CHECKS

- _____ Check fuel, oil, coolant levels, condition and for leaks. Refill or replace as necessary.
- _____ Ensure that fuel level is at 75% or higher. Forward fueling invoice to ICSD representative.
- _____ Check battery connection, specific gravity and water level. Check charger operation.
- Specific Gravity _____ Fluid Qty. Added _____
- Float Rate _____ Float Voltage (normal) _____ (cranking) _____
- _____ Check governor linkage, oil level and adjust speed according to frequency.
- _____ Check cooling system hoses. _____ Check air filter, intakes and outlets.
- _____ Check belts for proper tension and wear. _____ Check engine heater operation.
- _____ Check transfer tank for proper operation. _____ Check gauges and indicators.

OPERATIONAL CHECKS

- _____ Check transfer switch and accessory operation. Ensure contacts are in good repair.
- Generator Test Method: _____ Stand-alone; _____ Transfer Switch; _____ Main Circuit Breaker.
- Generator: No Load: Volts _____; Freq. _____; W/Load: Volts _____; Freq. _____; Amps _____.
- Alternator Charge Rate: Amps _____ at Volts _____. Engine Temp: Preheat _____; Hot _____.
- Oil Pressure: Cold _____ Hot _____. Exhaust smoke after 5 Minutes: _____.
- _____ Ensure that work area is clean and orderly. Do not store tools or supplies.

Notify ICSD immediately of any major problems.

Assistance Center: (808) 586-1900 (Honolulu)
 Radio engineer: ofc (808) 586-1930 x613 or mobile: (808) 282-5474.

Note discrepancies found and corrections made, if any: _____

Comments: _____

Please forward via FAX to: ICSD Radio Engineer at Fax: (808) 586-1962.

GENERAL CONDITIONS

Table of Contents

	<u>Page(s)</u>
1. Coordination of Services by the STATE.....	2
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.....	2
3. Personnel Requirements	3
4. Nondiscrimination	3
5. Conflicts of Interest	3
6. Subcontracts and Assignments	3
7. Indemnification and Defense.....	4
8. Cost of Litigation.....	4
9. Liquidated Damages	4
10. STATE'S Right of Offset.....	4
11. Disputes	4
12. Suspension of Contract.....	4
13. Termination for Default.....	5
14. Termination for Convenience	6
15. Claims Based on the Agency Procurement Officer's Actions or Omissions.....	8
16. Costs and Expenses	8
17. Payment Procedures; Final Payment; Tax Clearance	9
18. Federal Funds	9
19. Modifications of Contract.....	9
20. Change Order.....	10
21. Price Adjustment	11
22. Variation in Quantity for Definite Quantity Contracts	11
23. Changes in Cost-Reimbursement Contract.....	11
24. Confidentiality of Material	12
25. Publicity.....	12
26. Ownership Rights and Copyright	12
27. Liens and Warranties	12
28. Audit of Books and Records of the CONTRACTOR.....	13
29. Cost or Pricing Data	13
30. Audit of Cost or Pricing Data.....	13
31. Records Retention.....	13
32. Antitrust Claims.....	13
33. Patented Articles.....	13
34. Governing Law	14
35. Compliance with Laws	14
36. Conflict between General Conditions and Procurement Rules	14
37. Entire Contract.....	14
38. Severability	14
39. Waiver	14
40. Pollution Control	14
41. Campaign Contributions.....	14
42. Confidentiality of Personal Information.....	14

GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
 - h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
 - i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.
3. Personnel Requirements.
- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
 - b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.
4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.
6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.
- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:
 - (1) The Assignee assumes all of the CONTRACTOR'S obligations;
 - (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
 - (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
 - b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
- 7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
 - 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
 - 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
 - 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
 - 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
 - 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
 - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
 - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
 - (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
 - (C) Within such further time as may be allowed by the Agency procurement officer in writing.
- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
 - b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
 - c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.
17. Payment Procedures; Final Payment; Tax Clearance.
- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
 - b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
 - c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
 - d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.
18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.
19. Modifications of Contract.
- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
 - b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
 - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.
 - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
 - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
 - b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.